

The Corporation of the City of Richmond Hill

By-Law No. 43-20

Being a By-law to prohibit and regulate certain types of noise within the
City of Richmond Hill.

WHEREAS sections 8, 9 and 11 of the *Municipal Act, 2001*, authorize the Council of the Corporation of the City of Richmond Hill to pass by-laws necessary or desirable for municipal purposes, and in particular paragraphs 5, 6 and 8 of subsection 11(2) authorize by-laws respecting the economic, social and environmental well-being of the municipality, the health, safety and well-being of Persons; and the protection of Persons and property;

AND WHEREAS Section 129 of the *Municipal Act, 2001*, as amended, provides that a municipality may prohibit noise and vibration unless a permit is obtained from the municipality and may impose conditions for obtaining, holding and renewing the permit.

AND WHEREAS excessive sound and inadequately controlled noise may impair public health, safety and welfare and may become a nuisance;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF RICHMOND HILL ENACTS AS FOLLOWS:

1. That this By-law No. 43-20 be effective upon enactment.

PASSED THIS 24th DAY OF JUNE 2020.

Dave Barrow

Mayor

Stephen M. A. Huycke

City Clerk

ARTICLE 1 – Interpretation

1.1 Noise Limits

Where a decibel limit is referenced, the higher of the limit and the Ambient Sound Level shall be used for the determination of Noise.

1.2 Short Title

This By-law may be referred to as the "Noise By-law".

1.3 Definitions

In this by-law, the following words shall have the following meanings:

“Ambient Sound Level” means the sound level that is present in the environment, produced by sound sources other than the source under assessment.

“Amplified Sound” means sound made by any electronic device or a group of connected electronic devices incorporating one or more loudspeakers or other electro mechanical transducers, and intended for the production, reproduction or amplification of sound;

“Construction” means the erection, alteration, repair, dismantling, demolition, structural maintenance, land clearing, earth moving, grading, excavating, the laying of pipe and conduit (above or below ground level), street/highway building, concreting, equipment installation and alteration, the structural installation of construction components and materials in any form or for any purpose, and includes any work in connection with these activities;

“Construction Equipment” means any equipment or device designed and intended for use in Construction or material handling, including but not limited to: hand tools, power tools, air compressors, pile drivers, pneumatic or hydraulic tools, bulldozers, tractors, excavators, trenchers, cranes, derricks, loaders, scrapers, pavers, generators, off-highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders or other similar equipment;

“Continuous” means occurring continuously for a period of no less than fifteen (15) minutes;

“Corporation” means the Corporation of the City of Richmond Hill;

“Council” means council of the Corporation;

“dB” means the sound level in decibels obtained when using a sound level meter with no additional weighting;

“dB(A)” means the sound level in decibels obtained when using a sound level meter with the A-weighting;

Director means the Director of Community Standards of the Corporation or a successor office as the case may be;

“Domestic Tools” means any tool, equipment or device designed or intended for use for Construction or maintenance of private property by the private property owner where a building permit is not required including but not limited to: air compressors, electric power tools, manual hammers, and similar tools, but does not include Lawn Maintenance Equipment, or equipment used for the removal of snow;

“Lawn Maintenance Equipment” means any equipment, which uses a combustion or electric motor for the purposes of yard maintenance or repair and includes chain saws, lawn mowers, leaf blowers, grass trimmers, or any other similar equipment, but does not include equipment used to remove snow or ice.

“Leq” means the energy equivalent sound level or the continuous sound level that would result in the same total sound energy being produced over a given period.

“Motor Vehicle” includes an automobile, motorcycle, and any other vehicle propelled or driven otherwise than by muscular power, but does not include the cars of diesel, electric or steam railways, or other motor vehicles running only upon rails, or a motorized snow vehicle, traction engine, farm tractor, self-propelled implement of animal, husbandry or road-building machine within the meaning of the *Highway Traffic Act*.

“Municipal Act” means the Municipal Act, 2001, S.O. 2001, c. 25, as amended;

“Municipal By-law Enforcement Officer” means an individual appointed for purpose of enforcing the provisions of this by-law or any of the by-laws of the Corporation;

“Noise” means unwanted sound;

“Order” means an order issued by the Corporation requiring a Person to remedy a contravention of this by-law;

“Owner” means the registered Owner of a property, Owner in trust, or a mortgagee in possession, a Person who is managing or receiving the rent of the property, a Person who has control over the property, or an occupant over the age of 18.

“Persistent” means occurring intermittently for a total of fifteen (15) minutes over a sixty (60) minute period;

“Person” means an individual or a business, sole proprietorship, corporation, partnership, or limited partnership, or an authorized representative thereof;

“Point Of Reception” means any point on or in a premise of a Person where Noise originating from somewhere other than such premises is received;

“**Residential Zone**” means any lands designated for a residential use by a zoning by-law enacted by Council pursuant section 34 of the Planning Act, or any successor thereof;

“**Stationary Source**” means a source of sound or combination of sources of sound that are included and normally operated within the property lines of a facility, and includes the premises of a Person as one stationary source, unless the dominant source of sound on those premises is not covered by a specific section of this by-law;

“**Unreasonable Noise**” means any Noise that, in the opinion of a Municipal By-law Enforcement Officer, would disturb the peace, rest, enjoyment, comfort or convenience of a reasonable Person in the circumstance. Unreasonable Noise does not include Noise regulated under a specific prohibition or commonplace household or workplace sounds such as sound from furniture being moved, children playing, laughter or people engaging in normal conversation;

ARTICLE 2 – Prohibitions

2.1 General

No Person shall emit or cause or permit the emission of:

- a) Unreasonable Noise, or
- b) Noise which is Persistent or Continuous and clearly audible at a Point of Reception in a Residential Zone, which has a difference between dB(A) and dB of greater than 15 decibels.

2.2 Amplified Sound (Outdoors)

No Person shall emit or cause or permit the emission of Amplified Sound, which at a Point of Reception in an outdoor living area of a Residential Zone:

- a) exceeds an Leq (15 minutes) of 55 dB(A) from 8 a.m. to 10 p.m.; or
- b) is clearly audible from 10 p.m. to 8 a.m. the next day;

2.3 Amplified Sound (Indoors)

No Person shall emit or cause or permit the emission of Amplified Sound, which at a Point of Reception in an indoor living area of a dwelling in a Residential Zone:

- a) exceeds an Leq (15 minutes) of 50 dB(A) from 8 a.m. to 10 p.m.; or
- b) is clearly audible from 10 p.m. to 8 a.m. the next day;

2.4 Construction

No Person shall emit or cause or permit the emission of Noise resulting from any operation of Construction Equipment or any Construction that is clearly audible at a Point of Reception in a Residential Zone from 10 p.m. to 6 a.m. the next day.

2.5 Domestic Tools

No Person shall emit or cause or permit the emission of Noise resulting from any operation of Domestic Tools that is clearly audible at a Point of Reception in a Residential Zone:

- a) from 9 p.m. to 7 a.m. the next day, or
- b) from 9 p.m. to 9 a.m. Saturday and Sunday.

2.6 Loading and Unloading

No Person shall emit or cause or permit the emission of Noise resulting from loading, unloading, delivering, packing, unpacking, and otherwise handling any containers, products or materials that is clearly audible at a Point of Reception in a Residential Zone:

- a) from 9 p.m. to 7 a.m. the next day, or
- b) all day Sunday and statutory holidays.

2.7 Lawn Maintenance Equipment

No Person shall emit or cause or permit the emission of Noise resulting from the use of Lawn Maintenance Equipment that is clearly audible at a Point of Reception in a Residential Zone:

- a) from 9 p.m. to 7 a.m. the next day, or
- b) from 9 p.m. to 9 a.m. Saturday and Sunday.

2.8 Residential Air Conditioners, Pumps, and Filters

No Person shall emit or cause or permit the emission of Noise resulting from a residential air conditioner, pump, filter, or similar equipment that is clearly audible at a Point of Reception in a Residential Zone that exceeds an Leq (60 minutes) of 50 dB(A).

2.9 Stationary Sources

No Person shall emit or cause or permit the emission of Noise resulting from a Stationary Source that is clearly audible at a Point of Reception in a Residential Zone that exceeds an Leq (60 minutes) of 50 dB(A).

2.10 Vehicles

- a) No Person while on private property shall emit or cause or permit the emission of Noise resulting from the unnecessary operation of a Motor Vehicle such as the

sounding of a horn, revving of an engine, squealing of tires, banging, clanging or any similar sound that is clearly audible at a Point of Reception in a Residential Zone.

- b) No Person shall emit or cause or permit the emission of Noise resulting from the repair, rebuilding, modifying or testing of a vehicle if the Noise is clearly audible at a Point of Reception in a Residential Zone from 9 pm until 7 am.

2.11 Animals

No Person shall cause or permit Persistent Noise, including barking, calling or whining or other similar Noise, to be made by any animal.

ARTICLE 3 – Exemption Permits

3.1 Health, Safety and Betterment of the Community

Despite any other provision of this by-law, it shall be lawful to emit or cause or permit the emission of Noise from:

- a) measures undertaken for the immediate health, safety or welfare of the inhabitants of Richmond Hill, including emergency measures undertaken for the preservation or restoration of property;
- b) any of the activities or events listed in Schedule 1;
- c) any activity or event for which an exemption permit has been issued.

3.2 Exemption Permit Application

Any Person may apply for an exemption permit, which provides an exemption to a Noise prohibition or Noise limitation provision in this By-law by submitting to the Director:

- a) an application in the prescribed form including:
 - i. the applicant's name, address, and contact information;
 - ii. the date, time and location of each event or activity for which the exemption permit is sought and, where applicable, the number of people expected to attend;
 - iii. the purpose for which the exemption permit is required;
 - iv. a description of any sound equipment or Construction Equipment to be used;
 - v. the name, address and telephone number of at least one contact Person who will supervise each event or activity; and
 - vi. a written undertaking that one or more contact Persons responsible for supervising each event or activity will be on-site or available to assist during the entire event or activity to ensure compliance with the terms and conditions of the exemption permit.

- b) the non-refundable application fee as set out in the Corporation's Tariff of Fees By-law;
- c) any further information relevant to the application as requested by, and to the satisfaction of the Director which may include:
 - i. a Noise mitigation plan;
 - ii. a statement from an acoustical consultant for any Noises that are not technically or operationally feasible to control.

3.3 Exemption Permits

Upon receipt of an exemption permit application, the Director may grant the permit with applicable conditions, or refuse the permit. All permits, will be subject to the following conditions and the Director may include additional conditions on a case-by-case basis:

- a) the applicant and/or contact Person shall ensure compliance with any request or direction from a Police Officer or Municipal By-law Enforcement Officer;
- b) reasonable effort shall be taken to ensure Noise does not reach a level as to become Unreasonable Noise.

3.4 Revoking Exemption Permit

The Director may revoke an exemption permit, with or without notice, if there is non-compliance with any of the exemption permit conditions, or if deemed in the public interest to do so.

ARTICLE 4 – Inspection

4.1 Powers of Entry

A Municipal By-law Enforcement Officer may enter onto any property at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

- a) the provisions of this by-law;
- b) an Order issued under this by-law; or
- c) an order under Section 431 of the Municipal Act.

4.2 Inspection

For the purposes of an inspection carried out pursuant to Section 4.1, a Municipal By-law Enforcement Officer may:

- a) require the production for inspection of documents or things relevant to the inspection;

- b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- c) require information from any Person concerning a matter related to the inspection including their name, address, phone number and identification; and
- d) alone or in conjunction with a Person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of inspection.

4.3 Hindering or Obstructing

No Person shall hinder or obstruct, or attempt to hinder or obstruct, any Municipal By-law Enforcement Officer who is exercising a power or performing a duty under this by-law.

ARTICLE 5 – Orders

5.1 Order

A Municipal By-law Enforcement Officer who becomes aware of a contravention of this By-law may make one or more Orders requiring:

- a) the discontinuance of the activity/Noise; or
- b) to do work to correct the contravention.

5.2 Contents of Order

The Order shall set out the reasonable particulars of the contravention adequate to identify the contravention, the location of the land on which the contravention occurred, and the date by which there must be compliance with the Order.

5.3 Service of Order

An Order may be served by:

- a) delivering it personally to the Person to whom it is directed or if that Person cannot conveniently be found, by leaving it for the Person at the Person's last known or usual place of abode with an inmate thereof who appears to be at least sixteen years of age;
- b) pre-paid registered mail sent to the last known address of the Person, or as shown on the most recent records of the Corporation; or
- c) prominently posting a copy of the Order on the property in respect of which the Order is made.

5.4 Required to Comply

A Person in receipt of an Order shall comply with the requirements of the Order.

5.5 Remedial Action

If a Person fails to comply with an Order, the Director, or Persons acting upon his or her instructions, may enter the lands at any reasonable time for the purposes of doing the things described in the order at the property Owner's expense.

5.6 Recovery of Corporation's Costs of the Work

The Corporation's actual costs incurred in conducting the work described in Section 5.5, including any administration fees, shall be deemed to be a debt to the Corporation and may be collected by action or added to the tax roll and collected in the same manner as municipal taxes.

ARTICLE 6 – Enforcement

6.1 Enforced by Officer

Any Municipal By-law Enforcement Officer is authorized to enforce the provisions of this By-law and for the purpose of such enforcement may exercise any of the powers and perform any of the duties set out in this by-law.

6.2 Offence

Every Person who contravenes a provision of this by-law, including an Order, is guilty of an offence. If a corporation has contravened a provision of this by-law, including an Order, every director and officer who knowingly concurred in such a contravention is guilty of an offence.

6.3 Presumption

Where Noise occurs in contravention of any of the provisions of this by-law, the property owner shall be presumed to have been the Person who caused or permitted the contravention, which presumption may be rebutted by evidence to the contrary on a balance of probabilities. Where an owner is a corporation, the directors and officers of the corporation shall be presumed to have knowingly concurred in the contravention of his by-law, which presumption may be rebutted by evidence to the contrary on a balance of probabilities

6.4 Identification

A Municipal By-law Enforcement Officer may require the name, address and proof of identity of any Person believed to have committed an offence under this By-law, and the Person shall supply the required information.

6.5 Continuing Offence

If Noise occurs in contravention of any provision of this by-law, and the contravention has not been corrected, the contravention of the provision shall be deemed to be a continuing offence for each day or part of a day that the contravention remains uncorrected.

6.6 Non-Compliance with Order

If an Order has not been complied with, the contravention of the Order shall be deemed a continuing offence for each day or part of a day that the Order is not complied with.

6.7 Penalties

On conviction of an offence under this by-law, every Person is liable for a fine in accordance with the following rules made pursuant to section 429 of the Municipal Act:

- a) upon a first conviction, to a fine of not less than \$1000.00 and not more than \$50,000.00;
- b) upon a second or subsequent conviction for the same offence, to a fine of not less than \$2000.00 and not more than \$100,000.00;
- c) upon conviction for a continuing offence, to a fine of not less than \$1000.00 and not more than \$10,000 for each day or part of a day that the offence continues. The total of the daily fines may exceed \$100,000.00;
- d) upon conviction of a multiple offence, for each offence included in the multiple offence, to a fine of not less than \$1000.00 and not more than \$10,000.00. The total of all fines for each included offence is not limited to \$100,000.00.

6.8 Multiple Offence

For the purposes of this by-law, “multiple offence” means an offence in respect of two or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of this by-law.

6.9 Second or Subsequent Offence

For the purposes of this by-law, an offence is a second or subsequent offence if the act giving rise to the offence occurred after a conviction had been entered at an earlier date for the same offence.

ARTICLE 7 – Administrative Penalties

7.1 Alternative to Charge

In lieu of laying a charge under the Municipal Act for a breach of any provision of this by-law, a Municipal By-law Enforcement Officer may issue a penalty notice to the Person who has contravened this by-law in accordance with the service requirements of the Corporation’s Administrative Penalty By-law. For greater certainty, the Municipal By-law Enforcement Officer has the discretion to either proceed by way of an

administrative penalty or a charge laid under the Municipal Act, if an administrative penalty is issued to a Person for the breach, no charge shall be laid against that same Person for the same breach.

7.2 Amount - Payment

A Person served with a Penalty Notice shall be liable to pay to the Corporation an administrative penalty in the amount specified in Schedule “A” of the Administrative Penalty By-law. An administrative penalty for a contravention of this by-law that is not paid within 15 days after the day it becomes due and payable, constitutes a debt of the Person to the Corporation and may be added to a municipal tax roll and collected in the same manner as municipal taxes.

7.3 Procedures

A Person who is issued a Penalty Notice shall be subject to the procedures as provided for in the Corporation’s Administrative Penalty By-law.

ARTICLE 8 – General

8.1 Severability

In the event that any particular provision or part of a provision of this By-law is found to be invalid or unenforceable for any reason whatsoever, then the particular provision or provisions or part of the provision shall be deemed to be severed from the remainder of this By-law and all other provisions shall remain in full force and shall be valid and enforceable to the fullest extent permitted by law.

8.2 Transition

After the date of the enactment of this By-law, By-law 159-82 of the Corporation as amended shall apply only to those properties for which:

- a) an order with By-law 159-82 has been issued prior to the date of the enactment of this By-law, and then only to such properties until such time as the work required by the order has been completed or any enforcement proceedings with respect to such order, including any remedial work carried out by the Corporation, shall have been concluded.
- b) an exemption permit has been granted under By-law 159-82, only until which time the exemption permit expires.

8.3 Repeal of Previous By-law

Except for the purposes set out in Section 8.2, By-law 159-82, and all amendments thereto, are hereby repealed.

SCHEDULE 1

Exempt Activities

- 1) Operation of emergency vehicles.
- 2) Any community event which:
 - (a) is run by the Corporation,
 - (b) has received Council approval for in-kind services, or
 - (c) is hosted by a Councillor of the Corporation
- 3) Operation of bells or other alarms utilized as traffic control devices, including the following:
 - (a) bells and other devices at traffic signal locations, and
 - (b) bells at railway crossings
- 4) Operation of machines and equipment by or on behalf of the Corporation, including the following:
 - (a) painting machines for crosswalks and highways;
 - (b) tree and shrub pruning and mulching equipment;
 - (c) grass cutting or field maintenance equipment;
 - (d) Corporation owned or contracted street cleaners and flushers; and
 - (e) Construction Equipment and machinery, including snow removal equipment, used by or on behalf of the Corporation while carrying on or engaged in the performance of public works, including but not limited the following, capital projects and maintenance operations
- 5) Operation of bells, chimes, carillons and clocks in religious or public buildings.
- 6) Operation of machinery by or on behalf of a Provincial, Regional, or public utility Construction project where the work needs to be done outside of the allowed periods to minimize service interruptions.
- 7) Operation of Construction Equipment where the Corporation has issued a road use permit and in issuing such permit the Corporation mandates that the work be done on weekends or overnight to minimize traffic impacts.
- 8) Operation of equipment during activities which are considered normal farming practices in an agricultural area.
- 9) Any actions associated with the making of a movie, film or TV series or similar medium for which a permit has been granted by the Corporation, subject to all conditions applicable under the permit.
- 10) A fireworks display for which a permit has been granted by the Corporation, subject to all conditions applicable under the permit.